IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

(1) First Appeal No. 113 of 2001

Murari Lal …….. Appellant

Versus

The Collector, Dehradun
and others ……. Respondents.

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(2) First Appeal No. 09 of 2001

Udai Raj …….. Appellant

Versus

The Collector, Dehradun
and others ……. Respondents.

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(3) First Appeal No. 10 of 2001

Ram Manorath and others ……..…….. Appellants

Versus

The Collector, Dehradun
and others ……. Respondents.

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(4) First Appeal No. 11 of 2001

Smt. Manohari Devi and others ……..…….. Appellants

Versus

The Collector, Dehradun
and others ……. Respondents.

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(5) First Appeal No. 12 of 2001

Nar Singh and another ……..…….. Appellants

Versus

The Collector, Dehradun
and others ……. Respondents.

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(6) First Appeal No. 13 of 2001

Smt. Kaushalya Devi ……..…….. Appellants

Versus

The Collector, Dehradun
and others ……. Respondents.

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(7) First Appeal No. 14 of 2001

Jugal Kishore ……..…….. Appellants

Versus

The Collector, Dehradun
and others ……. Respondents.

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(8) First Appeal No. 15 of 2001

Satendra Singh and others ……..…….. Appellants

Versus

The Collector, Dehradun
and others ……. Respondents.

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(9) First Appeal No. 16 of 2001

Surendra Kumar and others ……..…….. Appellants

Versus

The Collector, Dehradun
and others ……. Respondents.

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(10) First Appeal No. 17 of 2001

Leelawati and others ……..…….. Appellants

Versus

The Collector, Dehradun
and others ……. Respondents.

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(11) First Appeal No. 18 of 2001

Jitendra Singh s/o
Sri Nathi Singh and others ……..…….. Appellants

Versus

The Collector, Dehradun
and others ……. Respondents.

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(12) First Appeal No. 19 of 2001

Nar Singh s/o
Sri Shyam Lal and another ……..…….. Appellants

Versus

The Collector, Dehradun
and others ……. Respondents.

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(13) First Appeal No. 20 of 2001

Shri Deep Chand s/o Shri Dhan Prakash
R/o Pathri Bagh
District Dehradun ……..…….. Appellant

Versus

The Collector, Dehradun
and others ……. Respondents.

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(14) First Appeal No. 21 of 2001

Smt. Vidhyawati w/o
Sri Basti Ram and others ……..…….. Appellants

Versus

The Collector, Dehradun
and others ……. Respondents.

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(15) First Appeal No. 22 of 2001

Bijinder Singh ……..…….. Appellant

Versus

The Collector, Dehradun
and others ……. Respondents.

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(16) First Appeal No. 23 of 2001

Ram Manorath and others ……..…….. Appellants

Versus

The Collector, Dehradun
and others ……. Respondents.

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(17) First Appeal No. 24 of 2001

Smt. Shanti Devi and others ……..…….. Appellants

Versus

The Collector, Dehradun
and others ……. Respondents.

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(18) First Appeal No. 25 of 2001

Narendra Singh ……..…….. Appellant

Versus

The Collector, Dehradun
and others ……. Respondents.

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(19) First Appeal No. 26 of 2001

Suresh Chand and another ……..…….. Appellants

Versus

The Collector, Dehradun
and others ……. Respondents.

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(20) First Appeal No. 27 of 2001

Ram Mohan ……..…….. Appellant

Versus

The Collector, Dehradun
and others ……. Respondents.

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(21) First Appeal No. 28 of 2001

Ram Raj ……..…….. Appellant

Versus

The Collector, Dehradun
and others ……. Respondents.

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(22) First Appeal No. 29 of 2001

Ram Singh and six others ……..…….. Appellants

Versus

The Collector, Dehradun
and others ……. Respondents.

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(23) First Appeal No. 114 of 2001 (M/B)

Sri Keshar Das and another ……..…….. Appellants

Versus

The Collector, Dehradun
and others ……. Respondents.

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(24) First Appeal No. 18 of 2003

Shakuntala Devi ……..…….. Appellants

Versus

The Collector, Dehradun
and others ……. Respondents.

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Coram: Hon'ble P.C. Verma, A.C.J.
Hon'ble Rajesh Tandon, J.

Date: 20.03.2004

[Per Hon'ble P.C. Verma, A.C.J.]

All the aforesaid first appeals arise out of the common facts and judgment dated 22.12.2000 passed by the learned Additional District Judge, Dehradun, in various Land Acquisition Cases, therefore, they are being disposed of by this common judgment. The appellants have filed these appeals for enhancement of the amount of compensation awarded by the learned Additional District Judge, Dehradun.

Brief facts giving rise to the present appeals are that 95.843 acre of land situated in village Dehra Khas Pargana Central Doon, District Dehradun was acquitted for the purposes of rehabilitation of displaced person of Tehri whose land was acquired by the Government for construction of Tehri Dam. In all these cases, the entire land was acquired under one and the same notification. The notification under section 4(1) of the Land Acquisition was published on 22.10.1988. The possession of the land was obtained on 22.09.1990 and the Special Land Acquisition Officer passed the Award on 04.04.1991. Subsequently, the payment of compensation awarded was also made the land owners. The appellants have received the amount under protest. Special Land Acquisition Officer found two categories of land viz. 'KACHIYANA' LAND AND 'ROSHLI AVVAL ABI LAND'. The compensation for 'KACHIYANA' land was awarded @ Rs. 4,73,684.70 paise per acre and the compensation for 'ROSHLI AVVAL ABI' land was awarded @ Rs.3, 15, 789.47 per acre.

Under reference U/s 18 of the Land Acquisition Act, the learned Additional District Judge, Dehradun, awarded the amount of compensation @ Rs.4,95,000/- per acre in all the reference cases except Reference no. 255 of 1991. In Reference no. 255 of 1991, he awarded compensation @ Rs. 3,45,000/- per acre. In addition to this, the appellants were also awarded 30% solatium charges, 12% additional

charges from the date of final Notification under section 4(1) of the Land Acquisition Act till the date of possession or the date of award whichever was earlier. They were also held entitled for statutory interest @ 9% for one year and at the rate of 15% subsequently till the date of payment.

The appellants have filed these appeals on the ground that the amount of compensation awarded by the Special Land Acquisition Officer was grossly inadequate and was not according to the prevailing market value as the land in question had building potentiality & all urban facilities, and situated within the City Board limit of Dehradun at a distance of 70 yards from the Industrial Estate. The famous institutions of Guru Ram Rai Degree College, Sarla Memorial Public School and Telephone Exchange also situate within a distance of 200-300 meters of the acquired land. The Railway station is at a distance of one kilometer and the main high way of P.W.D. road situate at a distance of ¼ kms. The land in question is irrigated land situated around ***ABADI.*** The appellants have alleged that there cannot be two categories of land as the entire land was acquired for single purpose of rehabilitation of the displaced persons and was placed under similar situation. Therefore, uniform rate of compensation should have been awarded. The Special Land Acquisition Officer had not appreciated the exemplars submitted by the petitioners in its proper perspective. The finding of the learned Reference Court is erroneous that the acquired land has got no building potential and it has wrongly rejected the sale-deeds referred by the claimants. The learned Reference Court failed to consider the various documentary evidence filed by the claimants as well as the statements made by the witnesses. Therefore, learned counsel for the appellants submitted that the compensation be enhanced @ Rs. Ten Lacs per acre.

Learned counsel for the respondents has submitted that the entire chunk of land was being used for agriculture and therefore, the compensation on the basis of building potentiality cannot at all be awarded. The learned Additional District Judge has treated the entire 95.843 acre of land tobe of one category and has awarded one rate of compensation without applying the belting process. He further

submitted that the learned District Judge took out one exemplar out of 124 exemplars, which were relied upon by the Special Land Acquisition Officer and relying on only one exemplar determined the market value rounding the figure of the sale-deed, thereby the market rate of compensation has already been determined at the highest rate, which is excessive as one sale deed can not be exemplar for entire land of 95.843 acre of land.

In the leading case i.e. Land Acquisition Case No. 254 of 1991, the learned Additional District Judge, Dehradun has recorded the statements of the witnesses, namely, P.W.1 Nar Singh, P.W. Kishan Lal Verma, P.W.3 Bijendra Kumar, P.W.4 Jagdish Chandra Sharma, P.W.5 Lt. Col. B. B. Ahluwalia, P.W.6 Raja Ram Uniyal and P.W.7 Murari Lal. In addition to the oral evidence, the claimants/appellants had filed sale-deed dated 17.09.1986 executed by one Rabindra Kaur Batra, sale deed dated 8.12.1987 executed by Smt. Uma Devi, Sale deed dated 29.1.1988 executed by Sri Guru Ram Rai College, Sale deed dated 17.6.1988 executed by Sri Raja Ram Uniyal, Bandobasti map of 1938 Fasli of Dehra Khas, the map published by survey of India Dehradun and copy of master plan made by Mussoorie Dehradun Development Authority for Dehradun. The learned Additional District Judge has also recorded the statement of defence witnesses, namely, D.W.1 Magan Lal Tiwari and D.W.2 retired S.L.A.O. – Leeladhar. The opposite parties had also filed copy of the letter filed by the appellants for the acquisition of the land and extract of Khatauni, site plan, 22 sale deeds, Jama-bandi of Dera khas for Agriculture year 1382-1386 Fasli, and Khasra Girdawari of the Agriculture year 1987 Fasli.

After considering the entire material on record the learned Reference Court has recorded that the report of the Special Land Acquisition Officer reveals that the land in which cereal like wheat was being cultivated has been put in ‘ROSHLI AVVAL ABI’ category and the land in which vegetable were cultivated have been placed in ‘KACHIYANA’ category. The report of Special Land Acquisition Officer also reveals that he has made a vast inspection of land just to find out whether or not any vegetable was being cultivated on the land

put under the Category of ‘ROSHLI AVVAL ABI’. Therefore, the making of these two categories and awarding different rates of different categories, was against the canon of justice. He found that when the substantial portion of the land was put under the ‘KACHIYANA’ category, there was no reason for Special Land Acquisition Officer to put a very small portion of the land into the category of ‘ROSHLI AVVAL ABI’ that too without the cogent evidence on record. Learned Reference Court has found that the entire chunk of the land acquired for the purpose of rehabilitation has similar potentiality and was being used for agriculture purposes. Therefore, he found that the petitioners were entitled to uniform rate of compensation provided for the category of ‘KACHIYANA’ land. The learned Reference Court has also recorded that all the witnesses have admitted that the Special Land Acquisition Officer has heard them before the Award was given and the Industrial area existed near and around the acquired land for the last 20-25 years. They also admitted that even at the time of acquisition of the land, it was being used as agricultural land and crops were standing thereon.

From the perusal of the record it is revealed that the Special Land Acquisition Officer has collected 124 sale deed which were executed within one year prior to the date of acquisition and on inspection the land of all these 124 sale deeds, he found that the land of sale deed at serial no. 68 was similarly situated with that of acquired land and he made this sale deed as the basis of his Award. The Special Land Acquisition Officer has remarked that this sale deed is for 0.19 acre of land which was executed on 6.11.1987 by Bijendra s/o Nathi and the quality of the land was ‘ROSHLI AVVAL ABI’ and according to which the rate was Rs.3, 15, 789.47 per acre and the land situated in plot no. 367 M. The learned Reference court found that a perusal of the entire report goes to show that at serial number 12 there was a mention of sale deed executed on 21.1.1988 by the same vendor Bijendra Singh s/o Nathi and was also with regard to same Khasra number 367 and the quality of the land was also ‘ROSHLI AVVAL ABI’ which was sold at the rate of Rs.3,22,033.89. Therefore, learned Reference Court found that when two sale deeds were there, which were executed by the same vendor and for the same Khasra number, the Special Land Acquisition Officer was

bound to select the sale deed witch fetched the highest sale price. Therefore, on the basis of this sale deed as exemplar for computation, the compensation was assessed to Rs. 4,93,053.83, which was rounded off to Rs. 4,95,000/- per acre irrespective of classification of land. In L.A. Case no. 255 of 1991 after making a deduction of 30% on account of largeness of area the claimant was held entitled to compensation at the rate of Rs. 3,45,000/- per acre. The claimants were further entitled to 30% solatium charges on the amount of compensation besides 12 % additional charges in lieu of compulsory acquisition and the statutory interest at the rate of 9% and 15%.

The learned Additional District Judge has treated the entire 95.843 acre of land tobe of one category and has awarded one rate of compensation without applying the belting process. He took out one exemplar out of 124 exemplars, which were relied upon by the Special Land Acquisition Officer. Relying on only one exemplar, he determined the market value rounding the figure of the sale-deed, thereby the market rate of compensation has already been determined at the highest rate, which is excessive as one sale deed cannot be exemplar for entire 95.843 acre of land.

In view of the above, all the appeals are devoid of merits and are hereby dismissed.

(P.C. Verma, A.C.J.)

(Rajesh Tandon, J.)

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